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असाधारण

EXTRAORDINARY

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PART II—Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bills were introduced in Lok Sabha on 16 May, 1997:—

Friday 16 May, 1997/26, Vaisakha, 1919

Bill No. 92 of 1996

A Bill to provide for reservation of posts in public employment and of seats in higher educational institutions for various categories of persons belonging to economically weaker sections of the people.

BE it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows:—

1. This Act may be called the Reservation for Economically Weaker Sections of the People (Higher Education and Public Employment) Act, 1996.

Short title.

2. In this Act,—

Definitions.

(a) "economically weaker sections of the people" means and includes families, irrespective of religion, race, caste, descent, place of origin or any of them, whose per capita aggregate income from all sources, including the individual income of all its members, does not exceed the average national per capita aggregate income for the last three years;

(b) "higher castes" means Brahmins, Rajputs and Vaishiyas and include all the sub-castes thereof;

(c) "higher education" means education at a level higher than the secondary, professional or otherwise, and include post-graduate education;

(d) "other backward classes" means other Hindu sub-castes, not being Scheduled Castes or Scheduled Tribes; and

(e) "public employment" means appointment to a public service or post under the Central Government in connection with the affairs of the Union and includes appointment to a post in an undertaking of the Central Government or an institution or an Organisation or a society, engaged in any activities, fifty-one per cent. of whose capital or recurring expenditure has been contributed directly or indirectly by the Central Government.

Explanation.—For the purposes of this Act, "appointment" does not include promotion from a lower post to a higher post on the basis of seniority or merit or fitness or any combination thereof, so long as the selections is internal.

Reservation
in public
employment.

3. (1) There shall be reservation in public employment for candidates belonging to economically weaker sections of the people.

(2) Such employment or appointment shall be apportioned among various identifiable social groups *i.e.* the Scheduled Castes, the Scheduled Tribes, the other backward classes and higher castes as well as religious minorities in proportion to their population in the field of selection; *i.e.* panchayat, block, district, State or the Union, as the case may be:

Provided that reservation in favour of the Scheduled Castes and Scheduled Tribes shall be in proportion to their population in the field of selection, while the reservation for the other social groups shall be in proportion to fifty per cent. of their population in the field or selection:

Provided further that a sub-group which forms five per cent. or more of the population of the field of selection may be treated as a separate group if it so desires, and a social group which forms less than five per cent. of the population of the field of selection may be joined with another social group of its choice.

Reservation in
educational
institutions.

4. (1) Fifty per cent. of the seats in a higher educational institution at each point of intake shall be reserved for candidates belonging to the economically weaker sections of the people.

(2) The reservation in educational institutions shall be apportioned in the same manner as laid down in sub-section (2) of section 3.

Beneficiary to
avail of benefit
of reservation in
Public employ-
ment only once.

5. No individual beneficiary shall be entitled to avail of the benefit of reservation in public employment more than once in his life.

Descendant of
beneficiaries of
reservation for
Groups A and
B Posts not be
entitled to
reservation.

6. The descendant of any beneficiary of reservation in public employment for Groups A and B posts shall not be entitled to the benefit of reservation in public employment.

Minimum
qualifications
not to be
relaxed.

7. Minimum qualifications for public employment or for admission to educational institutions shall be uniform and shall not be relaxed.

8. There shall be no reservation in promotion within a service or a cadre and promotion shall depend solely on the relative performance and merit of all those in the zone of promotion as defined under the relevant rules.

No reservation
for Promotion.

9. The quantum of reservation in favour of any group which remains unutilised for lack of candidates fulfilling the minimum qualification or requirement of eligibility shall be re-distributed among the candidates or other social groups in proportion to their surplus of qualified and eligible candidates failing which the vacancies shall be transferred to the non-reserved pool.

Redistribution
of reservation
quota.

10. The Central Government may make rules and frame scheme or schemes for reservation and to announce roster or rosters for the application of this Act.

Power to make
rules.

STATEMENT OF OBJECTS AND REASONS

At present reservation in public employment and in higher education is available mainly to two social groups namely Scheduled Castes and Scheduled Tribes. In some States reservation has been extended to other backward classes which are socially and educationally backward. So far, other social groups, mainly the higher castes of the Hindu community and the other religious communities do not fall under the purview of the scheme of reservation. The economically weaker sections of the higher caste groups as well as the religious minorities as a whole are generally under-represented both in public employment and in higher education. Thus under-representation sets up a vicious circle in which they are unable to benefit from the process of development, on one hand, and contribute to the process, on the other.

Also the existing scheme of reservation has created anomalies even within, the sections who are benefited. Under these schemes, the relatively richer and socially advanced; sub-sections corner the benefits and such benefits are transmitted from generation to generation, thus creating another exclusive and preferential group in society. Thus the poor majority in all sections of our people have been deprived of benefits which arise from protective discrimination such as reservation.

A universal economic criterion is needed to bring under the purview of the scheme of reservation the weaker sections of all social groups irrespective of their caste or community. At the same time, in order to universalise the benefits, the total quantum of reservation should be apportioned amongst the various social groups in proportion to their population within the field of selection. Keeping in view the requirements of goods administration, every social group should receive a weightage of 50 per cent, with the exception of the Scheduled Castes and Scheduled Tribes which, for historical reasons, should receive 100 per cent weightage. Thus a ceiling of 61.25 per cent on the total quantum of reservation will safeguard the interest of social justice as well as administrative efficiency and provide incentive to merit and pursuit of excellence. It is also desirable that minimum standards of qualifications for admission to higher education or for public employment should not be eroded and there should be no carry-over from year to year to unutilised quantum of reservation, so that posts and seats are not kept vacant which would be a national loss.

Finally, the benefit of reservation in education or employment should not go to the same person or to the same family more than once so as to ensure a more equitable and widespread coverage of society.

Hence this Bill.

NEW DELHI;
July 18, 1996.

SULTAN SALAHUDDIN OWAISI

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill empowers the Central Government to make rules and to frame scheme or schemes for reservation for carrying out the purposes of the Bill. The rules will relate to matters of detail only and as such the delegation of legislative power is of a normal character.

Bill No. 62 of 1996*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Forty-seventh year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 1996.

Short title and
commence-
ment.

(2) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

2. Article 39 of the Constitution shall be renumbered as clause (1) thereof and after the clause as so renumbered, the following clause shall be inserted, namely:—

Amendment of
article 39.

“(2) The State shall, with a view to achieving the objectives as enshrined in sub-clauses (b) and (c) of clause (1), endeavour to generate employment and provide necessary facilities for self-employment.”.

STATEMENT OF OBJECTS AND REASONS

Article 39 of the Constitution of India provides that the State shall direct its policy so that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment. This, no doubt, comes under the Directive Principles of State Policy but the operation of the country's economic policies over the years has resulted in concentration of wealth in the so-called "industrial houses", big or small, and in groups of families and their kith and kin. The rich are becoming richer and the vast majority of people are deprived of access to the means of production of wealth and their living standards remain comparatively low. The employment generation schemes are touching only the fringe of the problem of providing gainful means of livelihood to large sections of people in the country.

It is, therefore, desirable that the Government should undertake constructive employment generation schemes and provide necessary facilities for self-employment. The Government should give industrial licences, export and import licences, telephone booths for operating telephone services, petrol stations, L.P.G. agencies, ferry transport services, etc. to those individuals and members of their families who have not been benefited by such projects.

The Bill seeks to achieve the above objective.

NEW DELHI;
July 18, 1996.

SULTAN SALAHUDDIN OWAISI

Bill No. 64 of 1996

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1996.

Short title.

2. After article 30 of the Constitution, the following heading and article thereunder shall be inserted, namely:—

Insertion of
new article 31.

"Right to basic amenities

31. (1) Every citizen shall have the right to adequate potable water.

Right to
adequate
potable water.

(2) The State shall, within a period of five years from the commencement of the Constitution (Amendment) Act, 1996, provide adequate number of wells or tubewells or handpumps or water taps or water tankers, as the case may be, in every village, taluk, tehsil and at the district level to make adequate potable water available to each citizen."

STATEMENT OF OBJECTS AND REASONS

Water is one of the most essential elements for survival of all living creatures on the earth. Our country also has plenty of water in ponds, lakes, rivers and seas. While most of the water of the rivers and seas goes waste in the absence of efficient water management, the lakes and ponds have been dilapidating over the years mainly due to lack of water consciousness among the people. There is acute shortage of potable water almost everywhere in the country including the metropolitan cities. In most of the villages of India particularly in Andhra Pradesh, Bihar, Gujarat, Madhya Pradesh, Orissa, Rajasthan and Uttar Pradesh, villagers store rain water in ponds which they use mainly for drinking purposes. In the absence of any other option, they are compelled to use such stagnated, unhygienic water which is often infested with worms and insects.

In a welfare State like ours it is the duty of the State to fulfil the basic needs of its citizens. The State must, therefore, provide potable water to every citizen.

If right to potable water is made a fundamental right, the State will have to provide it otherwise the villagers as well as urbanites may organise themselves and either collectively or individually move the courts to force the Government of the day to provide potable water to them. Also, such a step will give a new directive to the Government to tackle this serious problem of the people.

Hence, this Bill.

NEW DELHI;
July 18, 1996

SULTAN SALAHUDDIN OWAISI

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for the right to potable water to the citizens and also provides that the State shall provide adequate wells, tubewells, handpumps, taps and water tanks in every village, tehsil and at district levels. The Bill, if enacted and brought into operation, will involve expenditure from the Consolidated Fund of India. It is expected that a recurring expenditure of rupees ten thousand crore will be involved from the Consolidated Fund of India per annum.

A non-recurring expenditure of about rupees fifty five crore is also likely to be incurred.

Bill No. 80 of 1996

A Bill to provide for the constitution of a Commission for the purpose of determining prices of all consumer and industrial goods

BE it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Price Control Act, 1996.

Short title, extent and commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

2. The Central Government shall constitute a Commission for the purpose of determining the prices of all consumer and industrial goods including life saving drugs and medicines, produced in or brought into the country from abroad.

Constitution of a Commission for determining prices of all consumer and industrial goods.

3. (1) The Commission shall consist of two representatives each of producers, consumers, labourers, wholesalers, retailers, farmers, every State Government and Central Government, who shall be nominated by the Central Government.

Members of the Commission.

(2) The Central Government shall appoint any member from amongst the members of the Commission to be its Chairman.

(3) The Chairman and other members of the Commission shall hold office for a period of two years.

Duty of the
Commission.

4. It shall be the duty of the Commission to determine the prices of all consumer and industrial goods periodically after taking into account such factors as may be deemed necessary by the Commission while fixing the prices.

Punishment.

5. If any person sells any consumer or industrial goods at a price more than that of the price determined by the Commission, he shall be punished with imprisonment for a term not exceeding three years or with a fine not exceeding ten thousand rupees or with both

Power to
make rules.

6. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

The price of all essential consumer goods and medicines are continuously increasing. The producers of consumer and industrial goods fix the prices keeping in view the huge profit and wholesalers and retailers arbitrarily charge increased prices. There is no effective control over the price of essential consumer goods.

Therefore, it is proposed to constitute a Commission which shall determine the prices of all consumer and industrial goods.

Hence this Bill.

NEW DELHI;
July 18, 1996.

SULTAN SALAHUDDIN OWAISI

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for the appointment of a Commission for determining prices of all consumer and industrial goods. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. The initial non-recurring cost of establishment etc. is estimated at ten lakh rupees. The annual recurring expenditure in respect of the Commission will be about five lakh rupees.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 empowers the Central Government to make rules for carrying out the provisions of the Bill. Since the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

Bill No. 91 of 1996

A Bill further to amend the Indian Fisheries Act, 1897.

BE it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Indian Fisheries (Amendment) Act, 1996.

Short title and
commence-
ment.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

4 of 1897.

2. In section 3 of the Indian Fisheries Act, 1897 (hereinafter referred to as the principal Act), after clause (2) the following clause shall be inserted namely:—

Amendment of
section 3.

“(2A) ‘Mechanised fishing’ means fishing by a boat fitted with an inboard engine;”

3. In section 4 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

Amendment of
section 4.

“(2) In sub-section (1) the word “water” includes the sea within a distance of twenty kilometres of the sea-coast, creeks, rivers, canals, streams or any other water course where fishing is possible; and an offence committed under that sub-section in such water shall be tried, punished and in all respects dealt with as if it had been committed on the land abutting on such water.”

Insertion of new
Section 4A.

4. After section 4 of the principal Act, the following section shall be inserted, namely:—

Destruction of
fish by
mechanised
fishing in
inland waters
and on coasts.

“4A. (1) If any person resorts to mechanised fishing in any water to catch or destroy any of the fish therein, he shall be punishable with a fine which may extend to fifty thousand rupees, or confiscation of nets and boat or with both.

(2) In sub-section (1) the word “water” includes the sea within a distance of twenty kilometres of the sea-coast, creeks, rivers, canals, streams or any other water course where fishing is possible; and an offence committed under that sub-section in such water shall be tried, punished and in all respects dealt with as if it had been committed on the land abutting on such water.”.

Amendment of
Section 5.

5. In section 5 of the principal Act, in sub-section (1), for the words “extend to two months, or with fine which may extend to two hundred rupees”, the words “extend to six months, or with fine which may extend to twenty thousand rupees or with both” shall be substituted.

Insertion of new
section 5A.

6. After section 5 of the principal Act, the following section shall be inserted, namely:—

Ban on deep
sea fishing.

“5A. There shall be a ban on deep sea fishing by trawlers owned by foreign countries.”

Amendment of
Section 6.

7. In section 6 of the principal Act, in sub-section (5), in clause (a) for the words “one hundred rupees”, the words “ten thousand rupees” shall be substituted.

Amendment of
Section 7.

8. In section 7 of the principal Act, in sub-section (1), after clause (b), the following clause shall be added, namely:—

“(c) If the person in charge of the mechanised boat refuses to cease forthwith the fishing operation on being directed to do so.”.

STATEMENT OF OBJECTS AND REASONS

The purpose of this amendment is twofold. Firstly, to render socio-economic protection to the traditional fishermen community numbering about 10 million, living in over 2000 villages along the entire 5650 Kms. coast-line of our country, who earn their livelihood with country-boats and nets, but whose survival is now threatened by the intrusion of mechanised boats, big business houses including Multinationals and NRIs companies into their centuries-old traditional fishing grounds in the in-shore coastal and inland waters. Secondly, to protect the delicate fish ecology and fish breeding grounds which are generally located in the warm nutrient rich shallow coastal waters; to prevent reckless mechanised fishing which causes killing of fish eggs, alarming depletion of fish resources, disastrous decline in daily fish catch rendering lakhs of poor fishermen impoverished. Reports about mass destruction of fish from around the coasts due to rampant pollution of lake and coastal sea waters by chemical wastes are frequent. Firm steps therefore need to be taken to prevent mechanised boats from fishing near the shores and necessary deterrent and punitive laws need to be passed and a protective force provided. These steps are considered necessary to prevent decline of fish stock, cutting of nets by mechanised boats and consequent economic crisis for the poorer classes, who are pursuing their centuries-old traditional rural-based occupation.

The Bill seeks to achieve the above objects.

NEW DELHI;
August 1, 1996.

BHAVNA CHIKHALIA

Bill No. 8 of 1997

A Bill to provide for the establishment of a permanent Bench of the High Court at Allahabad at Meerut.

BE it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

Short Title.

1. This Act may be called the High Court at Allahabad (Establishment of a permanent Bench at Meerut) Act, 1997.

Establishment
of a permanent
Bench of High
Court at
Allahabad at
Meerut.

2. There shall be established a permanent Bench of the High Court at Allahabad at Meerut and such Judges of the High Court at Allahabad, being not less than three in number, as the Chief Justice of that High Court may from time to time nominate, shall sit at Meerut in order to exercise the jurisdiction and power for the time being vested in that High Court in respect of cases arising in the districts of Ghaziabad, Bulandshahr, Muzaffarnagar, Meerut, Saharanpur and Haridwar.

STATEMENT OF OBJECTS AND REASONS

There has been a persistent demand for setting up of a permanent Bench of the High Court at Allahabad at Meerut.

Meerut city is well connected by rail and road with important parts of western Uttar Pradesh. Modern communication facilities are also available there. In the interest of cheap and speedy justice and for the convenience of the people living in Meerut and nearby districts, it is necessary to establish a permanent Bench of the High Court at Allahabad at Meerut as at present the people belonging to western Uttar Pradesh have to travel all the way to Allahabad in connection with their cases. It is a time consuming and costly affair for them.

The Bill seeks to achieve the above objective.

NEW DELHI;
November 20, 1996

ASHOK KUMAR PARDHAN

Bill No. 65 of 1997

A Bill further to amend the Hindu Marriage Act, 1955 and the Special Marriage Act, 1954.

BE it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Marriage Laws (Amendment) Act, 1997.

Amendment of
section 5 of
Act No. 25 of
1955.

2. In section 5 of the Hindu Marriage Act, 1955, in clause (ii), in sub-clause (c), the words "or epilepsy" shall be omitted.

Amendment of
section 4 of
Act No. 43 of
1954.

3. In section 4 of the Special Marriage Act, 1954 in clause (b), in sub-clause (iii), the words "or epilepsy" shall be omitted.

STATEMENT OF OBJECTS AND REASONS

A Committee of Prof. M.C. Maheswari, Dean of the Department of Neuro-Sciences, All India Institute of Medical Sciences, Prof. B.R. Kohli formerly Professor of Law, University of Delhi and Prof. K.R.G. Nair, Co-ordinator, Centre for Canadian Studies, University of Delhi, after making a detailed study of marriage legislation in India and abroad with particular reference to epilepsy, has strongly recommended that "epilepsy" should not be a ground for allowing a divorce. The Committee has, accordingly, suggested that the Hindu Marriage Act, 1955 and the Special Marriage Act, 1954 providing for 'epilepsy' as one of the grounds for divorce should be amended. In making their recommendation, the Committee has mentioned the following grounds :—

(i) There is a strong medical opinion that epilepsy, a definite disease of the brain, has no relation with insanity and hence cannot be treated in any way at par with insanity.

(ii) The present provision in the Indian marriage laws is supposed to be based on English law which has since been amended and epilepsy is no longer a ground for divorce there. The Law Commission in its 59th Report intended clearly that the laws should be substantially the same as the British Law. Now that British law has removed epilepsy as a ground for divorce, Indian Law should follow suit.

(iii) In most of the developed countries and also in many developing countries, epilepsy is no longer considered a legal ground for divorce.

(iv) In India too, Muslim, Parsi, Christian and other marriage laws do not treat epilepsy as a ground for divorce.

The proposed amendment will, therefore, remove a provision, which is medically and scientifically not valid and logical, which is an anachronism, which is harsh on women and which is, in fact, against our social ethos. The proposed amendments will result in safeguarding and protecting the institution of family and will also bring our laws in tune with customs of other communities in India and the laws obtaining in other countries of the world.

The Bill seeks to achieve the above objects.

NEW DELHI;
March 3, 1997.

JAYAWANTI NAVINCHANDRA MEHTA

Bill No. 51 of 1997

A Bill to provide for fixing the limit on borrowing by the Government of India under article 292 of the Constitution of India.

BE it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

Short title and
commence-
ment.

1. (1) This Act may be called the Borrowing (Fixation of Limit) Act, 1997.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Fixation of
limit on the
borrowing
power of the
Government of
India.

2. Notwithstanding anything contained in any other law for the time being in force, the executive power of the Government of India shall extend to borrowing upon the security of the Consolidated Fund of India to ten per cent. of the gross national product of India, to be determined from year to year.

STATEMENT OF OBJECTS AND REASONS

The question of fixing limits by Parliament on the borrowing powers of the Central Government under article 292 of the Constitution has been engaging the attention of the Parliament since the year 1962-63.

The Public Accounts Committee in its 9th Report (1962-63) observed:

"The Committee feel that the existing manner of getting Parliamentary approval to the borrowing programme of Government does not provide satisfactory opportunity of an intelligent appraisal in Parliament of the issues involved, which would be afforded, if there were a specific debate thereon. They understand that the practice established in U.K., Canada, Ceylon and USA was to obtain the approval of the Legislature either specifically, before going to market for loans or to restrict the borrowing to the limits prescribed by the Legislature."

The Committee further *inter alia* observed in its Fifty-second Report (1965-66):

"The present procedure under which Parliamentary approval is taken for borrowing programmes as indicated in the Five Year Plans and the annual budgets and for the expenditure from the Consolidated Fund to which the loans are credited, does not satisfy the Constitutional requirements."

The Committee also noted the opinion of the Secretary, Department of Economic Affairs, that a proper system of fixing a limit on Government borrowing could be evolved but it would have to take into account certain variations.

The Committee finally recommended (Fifty-second Report):

"In view of the provisions contained in article 292 of the Constitution and the fact that such statutory limits do exist in other countries and that the debt of the Government of India has been steadily increasing the Committee would like to reiterate their earlier recommendations on this subject."

In the Sixty-eighth Report (Third Lok Sabha), the Committee again observed:

"The Committee desire that the Government should take an early decision on the Committee's recommendations suggesting that a practical trial should be given to the healthy principle enunciated in article 292 of the Constitution regarding the fixation of a limit by Parliament on public borrowings".

Thus the need of a statute fixing the borrowing limit is being urgently felt particularly in view of the fact that the Government have gone in for massive loans from IMF, World Bank, etc., on conditions harmful to the self-reliant national economy and increasing craze for soft options to deal with the problems on economic front.

The Object of the Bill is to restrain the Executive from going in for wreckless borrowings and ensure Parliamentary accountability.

Hence this Bill.

NEW DELHI;
February 4, 1997.

CHITTA BASU

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117(1) OF THE
CONSTITUTION OF INDIA

[Copy of letter No. 6(2)-W & M/97, dated 27 February, 1997 from Shri P. Chidambaram, Minister of Finance to the Secretary-General, Lok Sabha.]

The President, having been informed of the subject matter of the proposed Bill, recommends the introduction of the Bill in Lok Sabha under article 117(1) of the Constitution of India.

Bill No. 55 of 1997

A Bill further to amend the Code of Criminal Procedure, 1973.

BE it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

1. This Act may be called the Code of Criminal Procedure (Amendment) Act, 1997.

Short title.

2 of 1974. 2. In Chapter II of the Code of Criminal Procedure, 1973 (herein after referred to as the principal Act), after section 25, the following section shall be inserted, namely:—

Insertion of new section 25A.

"25A. (1) The State Government may establish a Directorate of Prosecution consisting of a Director of Prosecution and as many Deputy Directors of Prosecution as it thinks fit.

(2) The Head of the Directorate of Prosecution shall be the Director of Prosecution, who shall function under the administrative Control of the Head of the Home Department in the State.

(3) Every Deputy Director Prosecution shall be subordinate to the Director of Prosecution.

(4) Every Public Prosecutor, Additional Public Prosecutor and Special Public Prosecutor appointed by the State Government under sub-section (1), or as the case may be, sub-section (8), of section 24 to conduct cases in High Court shall be subordinate to the Director of Prosecution.

(5) Every Public Prosecutor, Additional Public Prosecutor and Special Public Prosecutor appointed by the State Government under sub-section (3), or as the case may be, sub-section (8), of section 24 to conduct cases in District Courts and every Assistant Public Prosecutor appointed under sub-section (1) of section 25 shall be subordinate to the Deputy Director of Prosecution,

(6) The powers and functions of the Director of prosecution and the Deputy Directors of prosecution and the areas for which each of the Deputy Directors of Prosecution have been appointed shall be such as the State Government may by notification specify.

(7) The provisions of this section shall not apply to the Advocate General for the State while performing the functions of a Public Prosecutor."

3. After section 320 of the principal Act, the following section shall be inserted, namely:—

"320A. (1) Notwithstanding anything contained in this Code, the Police Officer shall be empowered to compound offences which are compoundable under section 320 or such offence for which the punishment is imprisonment for a maximum period of seven years with or without fine.

(2) The accused person whose offence can be compounded under sub-section (1), if pleads guilty, the police officer shall make a report to the Magistrate concerned who shall thereupon give effect to the compounding of the offence:

Provided that the compounding of offences under this section shall not be made in case of habitual offenders, persons accused of social and economic offences of grave nature and in case of offences against women and children."

4. After section 432 of the principal Act, the following section shall be inserted, namely:—

"432A. (1) In case of offences compoundable with the permission of the court under section 320, if the accused person pleads guilty, the court may pass an order of conviction and suspend the sentence if the accused person agrees to pay compensation to the aggrieved party within a specified period, as may be fixed by the Court.

(2) The accused person, whose sentence has been suspended under sub-section (1), if fails to pay compensation to the aggrieved party within the prescribed time, shall undergo imprisonment for the offence committed by him and shall also be punished with imprisonment for a term which may extend upto two years for default in payment of compensation."

Insertion of
new section
320A.

Plea bargain-
ing.

Insertion of
new section
432A.

Suspension of
sentence in
case accused
agrees to pay
compensation
to the
aggrieved.

STATEMENT OF OBJECTS AND REASONS

The Law Commission of India has recently in its Report to the Government recommended that there should be a cadre of investigation agency in every district subject to supervision by the higher authorities with a view to ensuring speedy trial of criminal cases envisaged within the meaning of article 21 of the Constitution.

In order to reduce arrears of cases pending before the trial Courts or appellate courts, the Law Commission has also suggested that in case of offences compoundable with the permission of the Court under section 320 of the Code of Criminal Procedure, if the accused pleads guilty, the court may pass an order of conviction and suspend the sentence, if the accused agrees to pay the aggrieved party a compensation. If the accused however, fails to pay compensation to the aggrieved party, he will be required to undergo imprisonment for default in payment.

The Law Commission has further recommended that the Code of Criminal Procedure should empower the investigating officer to compound offences which are compoundable at the investigation stage and make a report to the Magistrate who will give effect to the compounding of such offences. The concept of "plea bargaining" is also sought to be introduced in such cases where the offence committed is liable for punishment for a period of seven years or less. However, this plea shall not be available to habitual offenders, accused of social/economic offences of a grave nature and offences against women and children.

The Bill seeks to give effect to these recommendations of the Law Commission.

Hence this Bill.

NEW DELHI;

M. JAGANNATH

March 11, 1997.

Bill No. 64 of 1997*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 1997.

Insertion of
new article
151A, etc.

2. In Part V of the Constitution, after Chapter V, the following Chapter shall be inserted namely:—

Investigation
Commission.

"CHAPTER VI—INVESTIGATION COMMISSION

151A. (1) There shall be a Chief Investigation Commissioner and two Investigation Commissioners who shall be appointed by the President by warrant under his hand and seal.

(2) The Chief Investigation Commissioner and the two Investigation Commissioners shall be appointed for a term of five years or until he attains the age of sixty-five years, whichever is earlier.

(3) The appointment of the Chief Investigation Commissioner and the two Investigation Commissioners shall be made by the President on the advice of a Committee comprising the Prime Minister, the Speaker of the House of the People and the Chairman of Council of States and leaders of opposition of both Houses of Parliament.

(4) The terms and conditions of the appointment of the Chief Investigation Commissioner and the two Investigation Commissioners shall be such as may be prescribed by, or under any law made by Parliament.

151B. (1) Every Investigation Commissioner on his own or on receipt of a complaint in this behalf, shall inquire or cause to be inquired into any crime or allegation of any crime in the nature of corruption or misuse of power or misappropriation of funds or irregularity in any department or office or statutory authority or an undertaking under the control of the Union or of a State.

Duties of
Investigation
Commission-
ers.

(2) The Investigation Commissioners shall perform such duties in addition to duties prescribed in clause (1) and exercise such powers as may be prescribed by or under any law made by Parliament.

151C. (1) There shall be set up a Secretariat to be known as "Investigation Commission Secretariat".

Investigation
Commission
Secretariat.

(2) The Secretariat shall be headed by a Director and shall consist of as many Joint Directors, Assistant Directors and such other officers and staff as may be necessary for the efficient functioning of the Secretariat.

(3) The terms and conditions of appointment of officers and other staff of the Investigation Commission Secretariat shall be such as may be prescribed by or under any law made by Parliament in this behalf.

(4) The Secretariat shall assist the Chief Investigation Commissioner and the Investigation Commissioners in carrying out their functions.

STATEMENT OF OBJECTS AND REASONS

For the last 50 years of our independence, corruption has increased by leaps and bounds in almost all the Departments whether they belong to the Centre or State Governments or public offices. The Central Bureau of Investigation (CBI) which is working directly under the Government has not been able to check frauds, corruption prevailing in the country. During the last five years, large number of scams have been unearthed and it has not been possible for the CBI to investigate them quickly. They have not been able to complete the investigations in most of the cases so far referred to them. Various High Courts have passed strictures against the functioning of the CBI.

The work load of the CBI has increased manifold and it has not been able to cope up with the work load. Therefore, it is high time that the CBI may be converted into an autonomous Commission so that there is no interference by the respective Governments in its functioning. The Investigation Commission should have an independent body and should be responsible to the Parliament. Therefore, there is an urgent need of bringing amendment to the Constitution provided for the formation of an Investigation Commission in the country.

Hence this Bill.

NEW DELHI;
March 31, 1997.

G. A. CHARAN REDDY

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for establishment of an Investigation Commission consisting of a Chief Investigation Commissioner and two other Investigation Commissioners. It also provides for establishment of an Investigation Commission Secretariat consisting of such officers and staff as may be required. The Bill, if enacted will involve expenditure from the Consolidated Fund of India in respect of administration of the Commission and Secretariat. It is estimated that an annual recurring expenditure of about rupees twenty crore is likely to be involved from the Consolidated Fund of India.

A non recurring expenditure of about rupees four crore is also likely to be involved.

S. GOPALAN,
Secretary-General.